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February 12, 2007

The Honorable Elaine L. Chao  
Secretary of Labor  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Room S-2018  
Washington, DC 20210

Dear Secretary Chao:

This is to request that you move expeditiously to deal with a serious and imminent danger to underground coal miners.

We have known since the tragedies at the Sago and Darby #1 mines a year ago that the walls used to seal abandoned areas in these mines can be completely destroyed by explosions. While the Department of Labor finally issued some new instructions after the Darby explosion to address aspects of the problem, the Congress decided that more was required. Accordingly, the MINER Act provides that the Department take final regulatory action by December of this year to revise the rules for design and construction of these seals. Under the schedule you have announced, you plan to propose a rule in April, but would not finalize that rule until December.

Late last week, the National Institute for Occupational Safety and Health (NIOSH) released a draft report which reveals that the danger currently faced by underground coal miners is far worse than was previously known. The current standard requires seals to resist pressures of only 20 pounds per square inch, and the actions taken by MSHA last year require some seals to resist a maximum pressure of 50 pounds per square inch. According to the draft NIOSH report, it appears that explosions in sealed areas can create pressures of up to 650 pounds per square inch. This information is disturbing and requires your immediate attention.

Fortunately, the NIOSH draft report indicates that there are solutions to this problem using existing technologies and practices. One method is to actively monitor the pressures behind the seals and reduce them. Another is to build stronger seals. There is no reason not to move swiftly to require that mine operators take these actions.

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Accordingly, I urge you to issue an emergency temporary standard to take this new information into account. This will ensure that mine operators begin to quickly put new safeguards into place, rather than proceeding at a more deliberate pace while miners are in imminent danger. The Department used this authority last year to address a shortage of self-contained self-rescuers in these mines; I urge you to do so again.

I look forward to your prompt consideration and written response.

Sincerely yours,

  
**GEORGE MILLER**  
Chairman